

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

ABSTRAX, INC.	§	
Vs.	§	CIVIL ACTION NO. 2:07CV333
SUN MICROSYSTEMS, INC.	§	

**ORDER**

On October 24, 2007, the Court of Appeals issued its decision in *In re Volkswagen of America, Inc.*, 506 F.3d 376 (5<sup>th</sup> Cir. 2007). Shortly thereafter, on November 26, 2007, Sun filed a motion for change of venue in this case (#25). In its motion and reply papers, Sun argued that the standards set forth in *In re Volkswagen* required a change of venue in this case. On February 14, 2008, after the briefing was completed on Sun's motion, the Court of Appeals granted the suggestion for rehearing *en banc*. The Court of Appeals heard oral argument on May 22, 2008. No decision has been rendered. In light of this procedural posture, the court denies Sun's motion for change of venue (#25) without prejudice to re-urging under the standards announced in the en banc decision.

SIGNED this 17th day of September, 2008.

  
CHARLES EVERINGHAM IV  
UNITED STATES MAGISTRATE JUDGE